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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

IN RE:

Francis M Smolen

Debtor(s)

Case No.: 18-11847

Chapter: 13

Hearing Date: 9/18/18

Judge A. Benjamin Goldgar

NOTICE OF MOTION

TO: Marilyn O Marshall, Chapter 13 Trustee, 224 South Michigan Ste 800, Chicago, IL 60604 by electronic notice through ECF
Francis M Smolen, Debtor(s), 1104 Westover Ln Unit 1c, Schaumburg, IL 60193
Angelica Harb, Attorney for Debtor(s), 20 S. Clark Street, 28th Floor, Chicago, IL 60603 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 9/18/18, at 9:30AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge A. Benjamin Goldgar, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 642, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on September 11, 2018 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on September 11, 2018.

/s/ Joel P. Fonferko
Attorney for Movant

Berton J. Maley ARDC#6209399
Rachael A. Stokas ARDC#6276349
Gloria C. Tsotsos ARDC#6274279
Jose G. Moreno ARDC#6229900
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
Laura A. Hrisko ARDC#6230993
Codilis & Associates, P.C.
15W030 North Frontage Road, Suite 100
Burr Ridge, IL 60527
(630) 794-5300
C&A FILE (14-18-00357)

NOTE: This law firm is a debt collector.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on September 11, 2018 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on September 11, 2018.

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/s/ Joel P. Fonferko
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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OR IN THE ALTERNATIVE
TO DISMISS THE CASE FOR FAILURE TO MAKE PLAN PAYMENTS**

NOW COMES PNC BANK, NATIONAL ASSOCIATION , (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois, Eastern Division;

2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 1104 Westover Ln Unit 1C, Schaumburg, Illinois 60193;

3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 4/23/18;

4. The Chapter 13 plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceeding;

5. Pursuant to the plan, Debtor(s) is/are to disburse the current monthly mortgage payments directly to Movant beginning with the first payment due after the filing of the Chapter 13 Bankruptcy (subject to periodic adjustment due to change in escrow);

6. Movant is entitled to relief from the automatic stay under 11 U.S.C. Section 362(d) for the following reasons:

- a) As of 09/06/2018, the Debtor(s) is/are past due for the 7/1/18 payment, and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- b) As of 09/06/2018, the total post-petition default through and including 9/1/18, is \$2,515.31, which includes a suspense credit of \$26.43. Any payments received after this date may not be reflected in this default. This amount includes post-petition attorney fees in the amount of \$1,031.00;
- c) On 10/01/2018, the default will increase to \$2,970.52 and will continue to increase as additional amounts become due;

7. Said failure to make post-petition mortgage payments is sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. Section 362(d)(1);

8. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

9. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding:

\$850.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same
\$181.00 for Court filing fee

WHEREFORE, PNC BANK, NATIONAL ASSOCIATION prays this Court enter an Order pursuant to 11 U.S.C. Section 362(d) modifying the automatic stay as to Movant, or alternatively, for entry of an order dismissing the case pursuant to 11 U.S.C. §1307, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this September 11, 2018.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Joel P. Fonferko

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